

Editor's note: appealed -- stipulated dismissal (settled), Civ. No. 83-171 (D.Colo. July 15, 1983)

RAYMOND N. JOECKEL

IBLA 82-810

Decided November 9, 1982

Appeal from decision of the Colorado State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease application C-35288.

Affirmed.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Drawings

A simultaneous oil and gas lease application is properly rejected where it is dated prior to the commencement of the filing period, even though the application assertedly was signed during the filing period and inadvertently misdated, since 43 CFR 3112.2-1(c) requires that the date must reflect that the application was signed within the filing period, and since the appellant must bear the responsibility for any error in the dating of the application.

APPEARANCES: Raymond N. Joeckel, pro se; George K. Stearns, Esq., for BL Associates.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Raymond Joeckel has appealed the decision of the Colorado State Office, Bureau of Land Management (BLM), dated May 10, 1982, which rejected his simultaneous oil and gas lease application, C-35288, for parcel number 196 on the January 1982 simultaneous filing list. That decision provides:

Simultaneous oil and gas lease application filed by Raymond N. Joeckel, dated January 1, 1982, for Parcel Number 196 (January 4, 1982 -- Notice of Lands Available for Oil and Gas Filings) was drawn number one at the public drawing held in this office on March 10, 1982. This offer, given serial number C-35288, is hereby rejected for the following reason:

The regulations under Title 43 CFR state under 3112.1-2, Posting of Notice: At the start of business on the first working day of January, March, May, July, September, and November, a list of the lands for which applications shall be received shall be posted in the proper Bureau of Land Management State Office. The list shall include a notice stating that such lands are subject to the filing of lease applications from the time of such posting until the close of business on the fifteenth working day thereafter.

In 43 CFR 3112.2-1(c), Simultaneous Oil and Gas Lease Applications: The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period.

* * * * *

The simultaneous oil and gas lease application submitted by Raymond N. Joeckel bears the date January 1, 1982. Since January 4, 1982, was the first working day of the month, [the] filing period commenced January 4, 1982 at 7:45 a.m., and ended January 22, 1982 at 4:15 p.m., as identified on the January, 1982 simultaneous filing list. [Emphasis in original.]

On appeal Joeckel asks that BLM overlook the error in dating the application. He states that the application was filed within the critical time period as required.

On August 6, 1982, counsel for BL Associates, the second-drawn applicant for parcel number 196, filed an answer to appellant's statement of reasons. He states that the simultaneous oil and gas lease application filed by Joeckel bears the date January 1, 1981; and that accordingly the date appearing on Joeckel's simultaneous oil and gas lease application does not reflect that the application was signed within the filing period. He also cites a recent Board decision, Leonard Thompson, 62 IBLA 236 (1982), and contends that it is dispositive of the present appeal.

[1] In Leonard Thompson, *supra* at 236-37, we held:

Under 43 CFR 3112.2-1(c), a simultaneous oil and gas lease application must not only be dated at the time of signing, but the date on the application must also reflect that it was signed within the filing period. An application, such as appellant's, that bears a date prior to the filing period violates these requirements and is properly rejected. 43 CFR 3112.6-1(a); Herbert W. Winston, 61 IBLA 199 (1981); Grace Grant, 58 IBLA 366 (1981). Strict compliance with the requirements of 43 CFR 3112 is enforced in order to protect the rights of other qualified applicants. Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974); *aff'd*, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976). [Emphasis in original; footnotes omitted.]

See Walter Adomkus, 67 IBLA 177 (1982).

In the present case, as in Thompson, both first-drawn applications were dated prior to the start of the period for filing applications. In both situations, the party whose application was first-drawn stated that the application was inadvertently and incorrectly dated prior to the start of the filing period. Counsel for BL Associates is correct; the Thompson case is dispositive of this appeal. In Thompson we concluded at 237:

Even if appellant did, as he alleges, sign the application during the filing period and did date it (with an incorrect date) at the time of signing, he has not met the second of the requirements of 43 CFR 3112.2-1(c), since the date on the application must reflect that it was signed during the filing period. An applicant bears the responsibility for any error in the dating of the application, notwithstanding that the error may have been inadvertent and not representative of the actual date of signing. See H. L. McCarroll, 55 IBLA 215 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Bruce R. Harris
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Will A. Irwin
Administrative Judge

